

REPORT OF THE JUDICIAL RESOURCES COMMISSION
TO THE SUPREME COURT
AND GENERAL ASSEMBLY

CY 1993

In order to prepare this report for CY 1993, the Judicial Resources Commission met with the Presiding Judges Executive Committee representing the three major urban circuits, medium-sized circuits that are experiencing rapid growth that have two or more circuit judges, and presiding judges from rural circuits comprised of a single circuit judge. The Commission concluded that collecting the information first hand in this manner and having direct communication with the presiding judges would give greater insight into the needs and concerns of the courts.

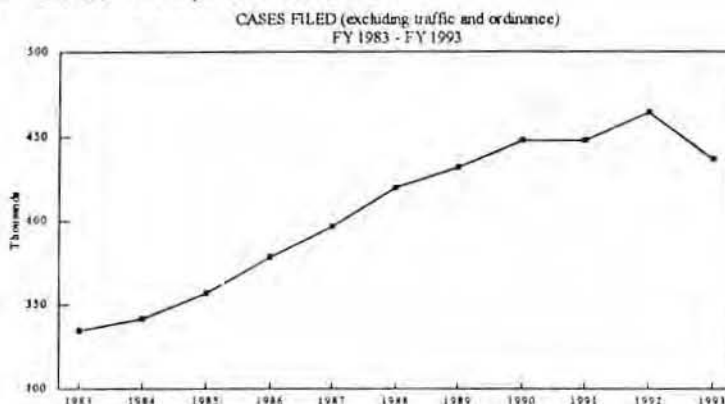
While many peripheral concerns were discussed, the presiding judges overwhelmingly observed the need for more clerical personnel and courthouse facilities.

CLERICAL PERSONNEL

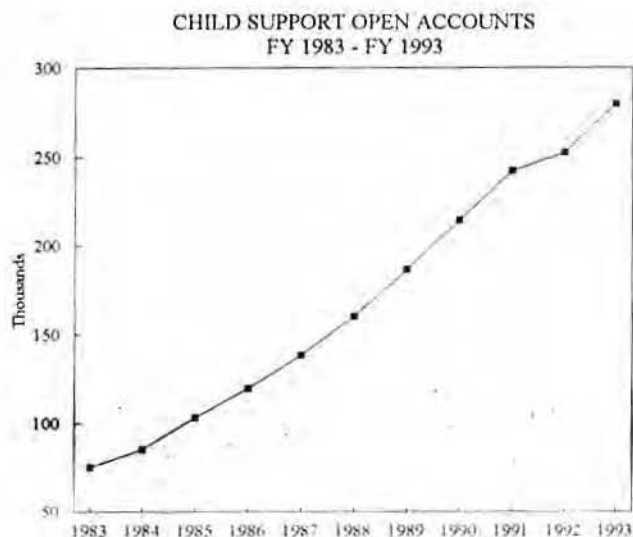
While the judiciary cannot control demand for its services, the court system must ensure the minimum constitutional guarantees of a speedy trial and due process in all cases that come before it. Resources that have not kept pace with workload increases threaten this fundamental principle.

Staffing levels have not kept pace with the growth in case filings. Legislation that increases the duties of the clerks of the courts, without additional staffing, further depresses the court's ability to maintain a fair, speedy process. For example, the Adult Abuse Act was adopted in 1980. In 1981, when employees of the courts became state employees, no new employees were added. By the end of FY 88, adult abuse filings totaled 11,819 cases. By the end of FY 93 adult abuse filings were up to 23,250 cases per year and still climbing. Since clerks must, by law, assist often distraught individuals in preparing pro se petitions, and there is a two-step process involving temporary ex parte orders followed by a contested hearing to establish full orders of protection, these are very labor-intensive filings. The court system has sought increased personnel due to increased caseloads in this area as well as in all the other areas where caseload has grown, but the requests have been largely unfunded.

The following graph depicts the increase in filings of over 102,000 more significant cases filed in FY 93 than were filed in FY 83. It excludes traffic and ordinance cases which in FY 93 numbered more than 363,000 cases.



Only 175 additional employees have been appropriated to the judiciary between FY 83 and FY 93 with 134 of those FTE employed for child support which is not included in the workload of the courts as a part of the caseload shown above. Child support workload is depicted below.



STATEWIDE AUTOMATION

Automation will introduce efficiencies and time savers that will net the judiciary tens of thousands of additional hours of clerical time. These time savings, however, must be compared to the current unmet needs of the judiciary. A decade of growing caseloads and few additional personnel to handle these cases has resulted in a system that is in dire need of an infusion of people and technology.

Time Savings Potential

There are many activities performed by the clerks that are currently done manually. Automation can save clerical time in a number of tasks performed by the clerks. Examples of a few of the many activities and the estimated time savings that could be realized by automating are listed below.¹

| <u>Activity</u> | <u>Requirement</u> | <u>Estimated Manual Processing Time (in minutes)</u> | <u>Estimated Automated Processing Time (in minutes)</u> | <u>Estimated Annual Statewide Time Savings (in minutes)²</u> |
|---|--------------------|--|---|---|
| Prepare and issue receipts for Cost Deposits and Payments | 483,550 RSMo | 2:00 | 1:00 | 13,910 |
| Prepare Case Index Record(s) | 483,082 RSMo | 2:00 | :00 | 28,680 |
| Prepare Docket Sheet(s) and Make Initial Entries | 483,082 RSMo | 3:00 | 1:00 | 21,740 |
| Prepare and Issue Summons | 506,120 RSMo | 2:00 | 1:00 | 7,167 |
| Prepare and Issue Warrant | 544,020 RSMo | 5:00 | 1:00 | 5,797 |
| Answer Telephone Inquiry Regarding Case (@ 1 call per case) | NA | 7:00 | 3:00 | 35,158 |
| Prepare Judgment Index Record | 511,450 RSMo | 5:00 | 2:00 | 20,985 |
| Prepare "Abstract of Court Record" and Send to Highway Patrol | 302,225 RSMo | 3:00 | 1:00 | 11,705 |
| Complete SWJIS Reporting ³ | 476,360 RSMo | 5:00 | :00 | 23,053 |
| Total Estimated Annual Statewide Time Savings (in hours): | | | | 168,195 |
| FTE (Based on 1800 hrs./year): | | | | 93.4 |
| Annual Monetary Value of Time Savings: | | | | \$1,031,900 |

¹These are estimated time figures based on time studies and observations. Data used to arrive at the figures are FY 92 case data.

²These estimates take into account all divisions of the circuit courts with the exception of the municipal divisions. Because some of these courts currently have some automation, actual time savings will be somewhat less than the figures presented in this table. These figures assume savings that would occur after all courts are automated and after all system users are trained to operate the system. Actual implementation of a statewide system would occur over a three-year period. Statewide time savings estimated in this table would not occur until sometime after the three-year implementation period.

³SWJIS is the Statewide Judicial Information System that compiles caseload statistics of the circuit courts. Once automated, courts will be able to generate these statistics as a by-product of the case data that is entered as part of the court record. In estimating time savings for this activity, 5 minutes was used for manually reporting detailed case data for each civil and criminal case and 30 seconds was used for manually reporting summary data for traffic and ordinance, juvenile and probate cases. Courts currently reporting electronically are not included in this estimate.

Effect on Clerical Needs

The current unmet need of clerical personnel is far greater than the most optimistic estimates of time savings that would be realized through statewide automation. Automation would, however, substantially reduce that need. Based on caseload and duties added to clerks' workload since 1981 -- the year the state assumed the responsibility for funding clerical positions of the judiciary -- an additional 357 FTE are currently needed to staff the courts at the staffing level that existed in 1981. With automation that need can be substantially reduced but not eliminated.

COURTHOUSE FACILITIES

The biggest obstacle to the better utilization of judges, both transferred and senior judges, is the lack of facilities at the local level to accommodate visiting judges with courtrooms and staff. The NEMO project has been largely successful due to St. Louis County's ability to provide three additional courtrooms for the visiting judges participating in the project.

In many older courthouses in the state there is no room for additional remodeling efforts and no plans to expand the facilities. There is a need not only for additional courtrooms but a need as well for jury facilities and clerical work space. Many courts have only one courtroom equipped for jury use. A request for a jury can effectively halt the process until that courtroom can be made available. Many counties recognize the need but do not have the resources to respond while others have or are responding.

Boone County has added a wing to the older facility and completely remodeled and refurbished the old courthouse. It is now a beautiful facility with adequate courtrooms, jury facilities, and space for the functions of the clerk's office.

St. Charles County has just completed the construction of a new courthouse which provides more adequate quarters for the courts and will occupy this facility by the end of 1993.

The Greene County Commission has agreed to build a courthouse annex and to provide additional courtroom space for the courts.

The 28th Judicial Circuit comprised of Barton, Cedar, Dade and Vernon Counties is exploring the possibilities of construction of a Judicial Center with both jail and courtroom space for the joint housing of prisoners and central management of the court's business.

Phelps County, in the 25th Judicial Circuit, is in the process of building a new courthouse while Pulaski County, within the same circuit, has been enjoying a new courthouse for the last three years.

Cole County, comprising the 19th Judicial Circuit, will be opening its new courthouse annex in the spring or early summer of 1994.

Means must be explored to assist counties in meeting the physical needs of the courts. There may be enough judgeships in the state, but providing facilities so that the existing judgeships can be fully utilized to meet the growing caseload and the new time standards, is an essential that cannot be overlooked.

RELATED SIGNIFICANT CONCERNS

- 1) The inability of the judiciary to communicate its needs to the legislature.
- 2) How to meet case processing time standards set out in Rule 17 that went into effect on July 1, 1993 without additional resources. Many new management techniques are being introduced in the courts to provide for more expeditious disposition of cases. The time standards were adopted to ensure the prompt and fair disposition of cases filed in Missouri's circuit courts and to provide litigants with time frames during which they, with reasonable certainty, can expect to have their case decided by the court or otherwise resolved.
- 3) The Public Defender's need for additional lawyers so that courts are not delayed while waiting for defense lawyers' availability. The judges expressed general support for the effectiveness of the public defenders but there was a genuine concern that resources are limited. The implementation of Rule 17 will have an impact on the State Public Defender System. The impact will be most evident in Associate Divisions that are not comfortably within established case processing time standards.

Judges have been patient in allowing defendants time to combine resources of family and friends to pay a retainer to hire attorneys of their own choices. Under the constraints of Rule 17, courts may be unable to extend the accused additional time to hire a private attorney, resulting in a higher workload for the public defenders. The impact of the Rule will be measured as each phase of the full implementation takes effect.

- 4) Juvenile facilities and treatment services.
 - a. Lack of medium offender facilities.
 - b. Availability of mental health services.
- 5) The lack of sufficient funds to compensate senior judges at the rates established by 476.682 RSMo. Retired judges have made a significant contribution in serving the public by making themselves available to the judiciary for assignment. Their services in FY 93 represented an equivalent expansion of the judicial work force by over eleven full time judgeships. Staffing for senior judges is difficult at the present staffing levels of the courts' clerical offices.
- 6) The bill establishing a family court in six circuits was passed by the 87th General Assembly in 1993. The bill required the 7th Judicial Circuit in Clay County, the 13th Circuit in Boone and Callaway Counties, the 16th Circuit in Jackson County, the 21st Circuit in St. Louis County, the 22nd Circuit in St. Louis City, and the 31st Circuit in Greene County to establish a family court on August 28, 1993. In addition, the legislation allows other circuits to voluntarily adopt the family court concept. St. Charles County, the 11th Circuit, has done so and the 20th Circuit comprised of Osage, Gasconade and Franklin is working toward that goal. In addition, there are two or three other circuits that are considering the possibility. The problems created by the legislation are that no funding other than the \$30 additional fee to be charged to litigants has been appropriated and this amount is inadequate to support the family court concept. Another problem is that the date that the legislation became effective was too close to its enactment date. This did not allow time for the courts to develop rules and procedures to design docketing and numbering schemes to meet the intent of the legislation by the effective date.
- 7) The impact of the passage of the Victim's Rights Bill on the prosecutors' offices, the Attorney General's office and the public defenders, as well as the courts. The bill creates delay by the necessity to locate and notify victims' hearings they may attend. When defendants decide to plea and it is appropriate for them to do so, they may change their minds during the period of time required for victims' notifications thus causing further delay or court proceedings that might not have been necessary. No funds were appropriated for the increased workload for the prosecutors, the public defenders or the courts. Public defenders may have to defend when it would have been in the best interests of their clients to have entered a plea, thus increasing the public defender workload. It is an onerous task to provide victims with thirty days notice of each action taken in a pending case.

In response to some of these needs, the Supreme Court has formed several committees to address and identify concerns. It had offered training in time standards to teams for each circuit in the state; a Family Court Planning and Implementation Committee has been formed to consider the issues that need to be addressed in adopting the family court concepts. A case management seminar was held for the three large metropolitan courts conducted by two presiding judges from other states who manage large courts and handle large caseloads. Both courts represented by the visiting judges are meeting their respective states' time standards and the judges shared many of the caseload management techniques used in their local circuits. A Judge Transfer Committee was established to provide equalization and fairness to judges who are asked to accept transfers to other circuits in an effort to assist areas where caseloads exceed the number of judges that have been provided by statute. A one year plan has been adopted with the anticipation that during the first year a better method of weighting judge loads can be adopted for future use.

In addition to the three new divisions added to the St. Louis County Circuit Court as a result of the NEMO project, another division, Division 47, was created that utilized twenty-four judges from southern and central Missouri courts to provide a judge in the division at all times. The NEMO divisions originally were twenty-two judges from northeast Missouri who filled three new divisions full time. That project now includes several additional judges from central Missouri.

November, 1993

Prepared by:

Judicial Resources Commission
Judge Paul M. Spinden, Chair

Mr. Richard G. Callahan
Judge Frank D. Connett
Mr. Joseph Downey
Mr. Maurice B. Graham
Judge Mary K. Hoff

Senator Thomas W. McCarthy
Senator John D. Schneider
Judge Glen R. Simmons
Representative Phil Tate

OFFICE OF STATE COURTS ADMINISTRATOR
1105 R. SOUTHWEST BOULEVARD
JEFFERSON CITY MO 65109